

STEVEN L. MARCHBANKS (SBN: 214686)  
steve@premierlegalcenter.com  
PREMIER LEGAL CENTER, A.P.C.  
2550 Fifth Avenue, 9th Floor  
San Diego, CA 92103  
Phone: (619) 235-3200; Fax: (619) 235-3300

ROBERT G. LOEWY (SBN 179868)  
rloewy@rloewy.com  
LAW OFFICE OF ROBERT G. LOEWY, P.C.  
610 Newport Center Drive, Suite 1200  
Newport Beach, California 92660  
Phone: (949) 442-7103; Fax: (949) 242-5105

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

SHAUN SATER; MICHAEL  
BRIGHT; THOMAS DERRICK;  
SCOTT JOHNSON; TODD  
WIRTHLIN; individuals on behalf of  
themselves and all others similarly  
situated,

Plaintiffs,

v.

CHRYSLER GROUP LLC, a Delaware  
limited liability company; and DOES 1-  
100, inclusive,

Defendants.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT  
FOR DAMAGES, RESTITUTION,  
AND INJUNCTIVE RELIEF AND  
DEMAND FOR JURY TRIAL**

- (1) VIOLATION OF THE  
MAGNUSON-MOSS  
FEDERAL WARRANTY  
ACT;
- (2) BREACH OF STATE  
EXPRESS WARRANTIES;
- (3) BREACH OF STATE  
IMPLIED WARRANTIES;
- (4) VIOLATION OF  
CALIFORNIA CONSUMER  
LEGAL REMEDIES ACT;
- (5) VIOLATION OF  
CALIFORNIA UNFAIR  
COMPETITION LAW;

- (6) VIOLATION OF TEXAS DECEPTIVE TRADE PRACTICES ACT;
- (7) NEGLIGENCE – FAILURE TO WARN;
- (8) NEGLIGENCE; FAILURE TO TEST;
- (9) NEGLIGENT MISREPRESENTATION; AND
- (10) UNJUST ENRICHMENT

Plaintiffs, on behalf of themselves and all others similarly situated, allege as follows:

**PARTIES**

1. Shaun Sater is a resident of Wildomar, California in Riverside County.
2. Michael Bright is a resident of San Mateo, California, located in San Mateo County.
3. Thomas Derrick is a resident of China, Texas in Jefferson County.
4. Scott Johnson is a resident of China Spring, Texas in McLennan County.
5. Todd Wirthlin is a resident of Kalispell, Montana in Flathead County.
6. Defendant Chrysler Group LLC (“Chrysler”) is a limited liability company organized under the laws of the State of Delaware and headquartered in Auburn Hills, Michigan. Chrysler’s registered agent for service of process in California is CT Corporation System, at 818 West Seventh Street, Los Angeles, California 90017.
7. The true names and capacities, whether individual, corporate, associates, or otherwise, of defendants sued herein as DOES 1 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues these defendants by such fictitious names.

8. All Defendants, including DOE Defendants, were at all relevant times acting pursuant to a joint enterprise in all respects pertinent thereto, and the acts of each Defendant are legally attributable to the other Defendants.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction over this action under the Class Action Fairness Act, the relevant portion of which is codified at 28 U.S.C. §1332(d). The aggregated claims of the individual Class members exceed the sum or value of \$5,000,000, exclusive of interests and costs, and this is a class action in which more than two-thirds of the proposed plaintiff class, on the one hand, and Defendant Chrysler, on the other, are citizens of different states.

10. This Court has jurisdiction over Chrysler because it is registered to conduct business in California; has sufficient minimum contacts in California; and intentionally avails itself of the markets within California through the promotion, sale, marketing, and distribution of its vehicles to render the exercise of jurisdiction by this Court proper and necessary. Moreover, Chrysler's wrongful conduct (as described herein) foreseeably affects consumers in California.

11. Venue is proper in this District under 28 U.S.C. §1391(a)(2) because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in this District.

### **SUBSTANTIVE ALLEGATIONS**

#### **THE DEFECT**

12. The following vehicles manufactured and sold by Chrysler in the United States (hereinafter, the "Class Vehicles"):

<b>MAKE</b>	<b>MODEL</b>	<b>MODEL YEARS</b>	<b>INCLUSIVE DATES OF MANUFACTURE</b>
DODGE RAM	2500 4x4	2008-2012	February 14, 2008 to January 21, 2012

1	DODGE RAM	3500 4x4	2008-2012	February 14, 2008 to
2				December 22, 2012
3	DODGE RAM	3500 Chassis	2008-2012	February 14, 2008 to
4		Cab 4x2		December 22, 2012
5	DODGE RAM	4500/5500 4x4	2008-2012	February 20, 2007 to
6				December 22, 2012

7 suffer from a uniform design defect affecting the safety and value of the vehicles.  
8 Specifically, the left (driver's side) tie rod ball stud is defective as it too weak to  
9 withstand normal use and will eventually fracture under normal driving conditions  
10 (the "Defect"). The weakness is exacerbated by the defective design of the Cross  
11 Car steering linkage system, which allows contact between the ball stud and the  
12 ball housing, thereby weakening the stud.

13 13. The tie rod is a crucial link in the vehicle's steering system. A loose  
14 tie rod can cause a vehicle to have excessive shimmy, or even worse, a "death  
15 wobble," which is an extreme and sometimes uncontrollable front end vibration  
16 that usually starts when one tire hits a groove or bump in the road and can only be  
17 controlled by bringing the vehicle to a stop. A defective tie rod will also affect  
18 front end alignment and could cause a vehicle to suddenly pull to a particular side  
19 of the road. Tie rods are also important suspension units, and therefore defective  
20 tie rods can cause uneven tire wear.

21 CHRYSLER'S EFFORTS TO DIAGNOSE AND REMEDY THE DEFECT  
22 THROUGH A SERIES OF HALF-STEPS AND INEFFECTIVE RECALLS

23 14. Shortly after releasing the 2008 model year Class Vehicles, Chrysler  
24 became aware of ball studs fracturing at a high rate necessitating left tie rod  
25 replacements. Despite its awareness of the problem, Chrysler opted to conceal the  
26 existence of the Defect from Plaintiffs and the general public.

27 15. In or about September 2010, Chrysler conducted a pilot program at  
28 the Saltillo Assembly Plant to study the effects of improved front end alignment on

1 the fore/aft left/right ball joint alignment. Chrysler initially believed that  
2 misalignment between the left and right ball studs during the front-end alignment  
3 toe set process – whether during assembly or a service realignment – was causing  
4 a decreased available window of fore/aft ball joint articulation. This decreased  
5 window, in turn, was forcing the left ball stud to articulate beyond its design  
6 window, resulting in fatigue over time.

7 16. After concluding the study in December 2010, Chrysler determined  
8 that an enhanced toe alignment would result in better ball joint alignment and  
9 would mitigate the fatigue of the left ball stud. Accordingly, in or around January  
10 2011, Chrysler announced a safety recall (K28) for its model year 2008 to 2011  
11 4500/5500 vehicles. (A copy of Recall K28 is attached hereto as Exhibit 1 and  
12 incorporated herein). At the time, Chrysler limited the recall to the 4500/5500  
13 vehicles, not its more widely-sold 2500/3500 vehicles. The recall instructed  
14 dealers to replace the left outer tie rod in all recalled vehicles. In addition, in or  
15 about February 2011, Chrysler issued dealer service instructions for recall K28,  
16 which detailed how to set the toe and align the tie rod ends.

17 17. In or about March 2011, Chrysler expanded its investigation of the tie  
18 rod problem to include the much more popular 2500/3500 vehicles and ultimately  
19 concluded that these vehicles also suffered from the same defect as the 4500/5500  
20 vehicles. Rather than issuing a recall for these vehicles, however, Chrysler simply  
21 disseminated enhanced instructions on the front end alignment process and how to  
22 orient the tie rods during the toe set procedure.

23 18. On or about April 4, 2011, the National Highway Traffic Safety  
24 Administration (“NHTSA”) advised Chrysler that it had commenced an  
25 investigation (PE11-009) regarding the outer steering tie rods for the 2008-2011  
26 2500/3500 vehicles based on numerous customer complaints of left outer tie rod  
27 ball studs fracturing. There was no reported issue with the right outer tie rod.

28

1           19. On or about June 28, 2011, based on the NHTSA investigation,  
2 Chrysler agreed to expand its K28 tie rod recall to include the 2500/3500 vehicles.  
3 Accordingly on or about August 15, 2011, Chrysler issued recall L16 to inspect the  
4 2500/3500 vehicles for relative orientation and replace as required the left outer tie  
5 rod. The recall also included a toe set procedure using an outer tie rod inclinometer  
6 tool. (A copy of the recall notice L16 is attached hereto as Exhibit 2 and  
7 incorporated herein). To perform the recall, Chrysler instructed its dealers to  
8 measure the right and left tie rod angles, and if the difference in angle was more  
9 than 5°, the tie rod would be replaced. Chrysler agreed to provide enough left tie  
10 rod packages to service about 5% of the recalled vehicles (The decision to only  
11 replace 5% of the tie rods stands in stark contrast to the 4500/5500 K28 recall, in  
12 which Chrysler agreed to provide new left tie rods for all recalled vehicles).

13           20. Unfortunately, the K28 and L16 recalls did not remedy the Defect and  
14 ball stud fractures continued at a high rate on all Class Vehicles. Chrysler initially  
15 suggested that the repair instructions were unclear and that some misinterpretation  
16 could exist when inspecting the relative ball stud alignment of the driver side tie  
17 rod, possibly leading to over articulation and subsequent fracture of the tie rod ball  
18 stud.

19           21. Ultimately, Chrysler decided to again recall all Class Vehicles. On  
20 or about October 30, 2013, Chrysler issued recall N63 for the 4500/5500 vehicles,  
21 and in December 2013, Chrysler issued recall N49 for the 2500/3500 vehicles. (A  
22 copy of the recall notices are attached hereto as Exhibits 3 and 4 and incorporated  
23 herein).

24           22. In recall N63, Chrysler warned that the left tie rod ball stud may  
25 fracture causing a loss of directional control or crash without warning. Chrysler  
26 then delivered this bad news: “Chrysler intends to repair your vehicle free of  
27 charge. However, the parts required to provide a permanent remedy for this  
28

1 condition are currently not available. Chrysler is making every effort to obtain  
2 these parts as quickly as possible.”

3 23. In recall N49, Chrysler similarly warned that the left tie rod ball stud  
4 may fracture causing a loss of directional control or crash without warning. Rather  
5 than telling vehicle owners that the parts were unavailable, however, Chrysler  
6 simply told owners to contact their dealer starting on January 6, 2014 to schedule  
7 a service appointment.

8 24. In addition, Chrysler notified its dealers to include an inspection of the  
9 steering linkage as part of recall N49. Chrysler further told the dealers that they  
10 would receive enough replacement steering linkages to service about 10% of the  
11 affected vehicles. Chrysler also required its dealers to perform the steering linkage  
12 repair on all unsold vehicles before retail delivery.

13 25. On or about March 7, 2014, Chrysler secretly advised its dealers that  
14 there was an order restriction on the parts needed for the recalls. (A copy of the  
15 dealer notice is attached hereto as Exhibit 5 and incorporated herein). Chrysler  
16 reported that it was investigating a concern regarding the difficulty of installing the  
17 part due to the misalignment of the ball stud. Chrysler stated that it was in the  
18 process of recertifying the part and developing a new part number, which it  
19 expected to be available for distribution in limited quantities beginning the week  
20 of April 14, 2014.

21 26. To date, no recall repairs have been performed for Plaintiffs – despite  
22 their repeated requests to schedule such appointments. The dealers have advised  
23 Plaintiffs that they are unable to schedule repairs while the parts are on back order.

24 27. As of the date of this filing, Chrysler has issued multiple recalls for  
25 the Defect, but has yet to solve the problem and does not even have enough of the  
26 necessary parts to begin the repairs. Moreover the Defect is unrepairable, due to  
27 design restrictions on the size of the ball stud. Moreover, as of today, Chrysler has  
28 failed to offer owners of Class Vehicles any reimbursement for loss of use of the



1 Class Vehicles, diminution in value of the Class Vehicles, or reimbursement of  
2 amounts previously spent repairing the Defect or resulting damage in Class  
3 Vehicles.

4 28. Beginning with Model Year 2013, Chrysler redesigned its  
5 2500/3500/4500/5500 vehicles with a new reciprocating ball steering gear that  
6 gives greater durability and control with redesigned steering knuckles, ball joints,  
7 and more robust steering linkages.

8 CHRYSLER'S SALES PRACTICES

9 29. Chrysler markets, distributes, and warrants the Class Vehicles in the  
10 United States.

11 30. Chrysler uniformly advertises the Class Vehicles as safe and reliable  
12 vehicles.

13 31. Chrysler provides owners and lessees of Class Vehicles with a New  
14 Vehicle Limited Warranty. The New Vehicle Limited Warranty states that Chrysler  
15 will repair or replace, free of charge, any part that is defective in material or  
16 workmanship under normal use for 3 years or 36,000 miles, whichever comes first.  
17 A copy of the warranty, which is substantially identical in language for all Class  
18 Vehicles, is attached hereto as Exhibit 6 and incorporated herein by reference.

19 32. Prior to announcing the recalls, Chrysler actively concealed the Defect  
20 from consumers. Even when an owner or a lessee of a Class Vehicle specifically  
21 asked whether his or her vehicle suffered from a known problem, Chrysler's policy  
22 was to deny that there was a known problem and to continue concealing the Defect.

23 33. Chrysler knew that potential car buyers and lessees would deem the  
24 Defect to be material such that reasonable consumers who knew of the Defect either  
25 would have paid less for the Class Vehicles or would not have purchased or leased  
26 a Class Vehicle at all.

27 34. As a result of Chrysler's practices, Plaintiffs and Class members  
28 purchased Class Vehicles they otherwise would not have purchased, paid more for



1 those vehicles than they would have paid, unnecessarily paid – and will continue  
2 to pay – repair costs as a result of the Defect, and suffered diminution of those  
3 vehicles' resale value.

4 35. Plaintiffs are informed and believe and thereon allege that the  
5 discovery of the Defect and the resulting publicity in connection therewith has  
6 damaged the reputation of the Class Vehicles for safety and significantly  
7 diminished the value of the vehicles for re-sale.

8 FACTS SPECIFIC TO PLAINTIFFS

9 36. Plaintiff Shaun Sater purchased a 2009 Dodge Ram 2500, VIN  
10 3D3KS28L39G536860, from Frahm Dodge in Norco, California on or about  
11 January 13, 2010. After receiving recall N49 from Chrysler in or about December  
12 2013, Sater called DCH Dodge of Temecula to schedule an appointment and was  
13 told the parts were ordered and the dealer would call when they arrived. After two  
14 months, Sater called the dealer for an update and was told that the parts still had  
15 not arrived. The dealer did request that Sater bring the vehicle in for an inspection.  
16 Sater did as instructed, and after the inspection, he was told that the replacement  
17 parts were still on back order. On or about March 24, 2014, the vehicle's left tie  
18 rod broke while driving, and the tires went in opposite directions. The vehicle was  
19 then towed to the dealer, where Sater was advised that the parts had recently arrived  
20 but had been sent back to Chrysler due to a recall. Sater was then forced to pay  
21 over \$1000 out of his own pocket to get the vehicle drivable again, yet he still  
22 cannot drive the vehicle over 50 mph without experiencing the death wobble. More  
23 work is needed on the front end to make the vehicle safe and functional. Sater does  
24 not feel safe in the vehicle.

25 37. Plaintiff Michael Bright purchased a 2010 Dodge Ram 2500, VIN  
26 3D7UT2CLXAG16589, on or about July 16, 2010 from Dublin Dodge in Dublin,  
27 California. In or about December 2013, Bright received recall notice N49 and  
28 contacted Burlingame Dodge in Burlingame, California to schedule an

1 appointment for the repair. The dealership advised Bright on multiple occasions  
2 that the replacement parts were unavailable and that there was not yet a date when  
3 the parts would be ready. On at least two separate occasions, Bright has  
4 experienced loss of steering and control due to a failure of the tie rod joint.

5 38. Plaintiff Thomas Derrick purchased a 2010 Dodge Ram 3500, VIN  
6 3D73Y4HLXAG142824, on or about May 18, 2013 from his uncle, Roy Morrell,  
7 the original purchaser. In or about December 2013, Derrick received recall notice  
8 N49 and contacted Sour Lake Motor Co. in Sour Lake, Texas to schedule an  
9 appointment for the repair. The dealer informed Derrick that the replacement parts  
10 were currently unavailable and would not be available until April 6, 2014.  
11 Subsequently, the dealer advised Derrick that the replacement parts had been  
12 recalled and that a date for the repair was unknown. As a result of the Defect,  
13 Derrick has experienced excessive play in the steering column, and excessive wear  
14 on the steering damper, drag link, steering box, pitman arm and tires.

15 39. Plaintiff Scott Johnson purchased a 2010 Dodge Ram 2500, VIN  
16 3D7UT2CL0AG176737, on or about November 10, 2011, from Benny Boyd  
17 Dodge in Lampasas, Texas. After receiving recall notice N49 in or about  
18 December 2013, Johnson contacted Benny Boyd Chrysler Dodge in Lampasas,  
19 Texas and Waco Dodge in Waco, Texas. Both dealerships advised Johnson that  
20 they could not give him a date when they would have the parts needed to repair his  
21 vehicle.

22 40. Plaintiff Todd Wirthlin purchased a 2011 Dodge Ram 3500, VIN  
23 3D73Y4HL6BG548973 on or about May 23, 2011 from Larry H. Miller Dodge in  
24 Sandy, Utah. In addition, he purchased a 2012 Dodge Ram 3500, VIN  
25 3C63DRML1CG318677 on or about December 10, 2012 from Larry H. Miller  
26 Dodge in Sandy, Utah. In addition, he purchased a 2012 Dodge Ram 3500, VIN  
27 3C63D3MLOCG245458 on or about May 25, 2013 in Layton, Utah. After  
28 receiving recall notices N49 in or about December 2013 from Chrysler, Wirthlin

1 contacted Don K Dodge in Whitefish, Montana to schedule an appointment for the  
2 repair on all three vehicles. The dealer advised Wirthlin that the replacement parts  
3 were currently unavailable for all three vehicles and would not be available for at  
4 least 28 weeks.

### 5 CLASS ACTION ALLEGATIONS

6 41. This action has been brought and may properly be maintained on  
7 behalf of the Class proposed below under Federal Rule of Civil Procedure Rule 23.

8 42. **Definition.** Plaintiffs bring this action on behalf of themselves and a  
9 class of persons initially defined as follows: “All current or former purchasers and  
10 lessees of the Class Vehicles who resided in or purchased or leased their vehicles  
11 in the United States (other than for purposes of resale or distribution) on or after  
12 June 10, 2009 (the “Class”).” Alternatively, the following subclasses are defined  
13 as follows:

14 a. All current or former purchasers and lessees of the Class Vehicles who  
15 resided in or purchased or leased their vehicles in California (other  
16 than for purposes of resale or distribution) on or after June 10, 2009  
17 (the “California Subclass”);

18 b. All current or former purchasers and lessees of the Class Vehicles who  
19 resided in or purchased or leased their vehicles in Texas (other than  
20 for purposes of resale or distribution) on or after June 10, 2009 (the  
21 “Texas Subclass”);

22 c. All current or former purchasers and lessees of the Class Vehicles who  
23 resided in or purchased or leased their vehicles in Utah (other than for  
24 purposes of resale or distribution) on or after June 10, 2009 (the “Utah  
25 Subclass”);

26 43. Excluded from the Class and subclasses are Chrysler; any affiliate,  
27 parent, or subsidiary of Chrysler; any entity in which Chrysler has a controlling  
28 interest; any officer, director, or employee of Chrysler; any successor or assign of

1 Chrysler; any Judge to whom this action is assigned; and any owners or lessees of  
2 Class Vehicles that were not distributed for sale or lease in the United States.

3 44. Also excluded from the Class and subclasses are individuals who have  
4 claims for personal injury resulting from the Defect.

5 45. **Numerosity**. Members of the Class and subclasses are so numerous  
6 that their individual joinder herein is impracticable. Plaintiffs estimates that there  
7 are in excess of 200,000 Class members. In addition, Plaintiffs estimate that there  
8 are in excess of 1,000 in each subclass. Class members may be notified of the  
9 pendency of this action by mail, supplemented (if deemed necessary or appropriate  
10 by the Court) by published notice.

11 46. **Existence and predominance of common questions**. Common  
12 questions of law and fact exist as to all members of the Class and subclasses and  
13 predominate over questions affecting only individuals. These common questions  
14 include the following:

- 15 a. Whether Chrysler provided Plaintiffs and Class members with a  
16 vehicle inherently defective in its tie rods design, manufacture and  
17 assembly;
- 18 b. Whether the Defect would be considered material by a reasonable  
19 consumer;
- 20 c. Whether Chrysler had a duty to disclose the Defect to Plaintiffs and  
21 other Class members;
- 22 d. Whether Chrysler breached the express warranty by refusing to  
23 timely provide warranty coverage for the Defect;
- 24 e. Whether the Defect has diminished the value of the Class Vehicles;
- 25 f. Whether the Defect is capable of being repaired;
- 26 g. Whether Plaintiffs and the other Class members are entitled to  
27 equitable relief, including but not limited to restitution or a  
28 preliminary and/or permanent injunction; and

1 h. Whether Plaintiffs and the other Class members are entitled to  
2 damages and other monetary relief.

3 47. **Typicality**. Plaintiffs' claims are typical of the claims of the Class,  
4 because, among other things, Plaintiffs purchased or leased a Class Vehicle that  
5 contained the same Defect found in all other Class Vehicles.

6 48. **Adequacy**. Plaintiffs are adequate representatives of the Class  
7 because their interests do not conflict with the interests of the members of the Class  
8 they seek to represent. Plaintiffs have retained counsel competent and experienced  
9 in complex class action litigation, and Plaintiffs intend to prosecute this action  
10 vigorously. The interests of members of the Class will be fairly and adequately  
11 protected by Plaintiffs and their counsel.

12 49. **Superiority**. The class action is superior to other available means for  
13 the fair and efficient adjudication of this dispute. The injury suffered by each Class  
14 member, while meaningful on an individual basis, is not of such magnitude as to  
15 make the prosecution of individual actions against Chrysler economically feasible.  
16 Even if Class members themselves could afford such individualized litigation, the  
17 court system could not. In addition to the burden and expense of managing myriad  
18 actions arising from the defect, individualized litigation presents a potential for  
19 inconsistent or contradictory judgments. Individualized litigation would increase  
20 the delay and expense to all parties and the court system presented by the legal and  
21 factual issues of the case. By contrast, the class action device presents far fewer  
22 management difficulties and provides the benefits of single adjudication, economy  
23 of scale, and comprehensive supervision by a single court.

24 50. In the alternative, the Class may be certified because:

25 a. the prosecution of separate actions by the individual members of  
26 the Class would create a risk of inconsistent or varying  
27 adjudication with respect to individual Class members which  
28 would establish incompatible standards of conduct for Chrysler;



1 Warranty with the purchase or lease of the Class Vehicles, thereby warranting to  
 2 repair or replace any part defective in material or workmanship at no cost to the  
 3 owner or lessee; (b) selling and leasing Class Vehicles that were defective in  
 4 material and workmanship, requiring repair or replacement within the warranty  
 5 periods; and (c) refusing to honor the warranties by repairing or replacing, free of  
 6 charge, the Defect.

7 59. Based on the facts alleged herein, any durational limitation to the  
 8 warranties that would otherwise bar the Magnuson-Moss Federal Warranty Act  
 9 claims in this Count, whether premised on express or implied warranty, is  
 10 procedurally and substantively unconscionable under federal law and the  
 11 applicable state common law.

12 60. Based on the facts alleged herein, any durational limitation to the  
 13 warranties that would otherwise bar the Magnuson-Moss Federal Warranty Act  
 14 claims in this Count is tolled under equitable doctrines.

15 61. Chrysler has been afforded a reasonable opportunity to cure its breach  
 16 of warranties.

17 62. As a direct and proximate result of Chrysler's breach of written  
 18 warranties, Plaintiffs and Class members sustained damages and other losses in an  
 19 amount to be determined at trial. Chrysler's conduct damaged Plaintiffs and Class  
 20 members, who are entitled to recover damages, consequential damages, specific  
 21 performance, diminution in value of the Class Vehicles, costs, attorneys' fees,  
 22 rescission, and/or other relief as appropriate.

## 23 **COUNT II**

24 (Breach of State Express Warranties

25 On Behalf of Named Plaintiffs and the California, Texas and Utah Subclasses)

26 63. Plaintiffs reallege as if fully set forth herein each and every allegation  
 27 set forth above.



1           64. Chrysler's actions, as alleged above, violate state express warranty  
2 statutes in the states of California (Cal. Com. Code §2313), Texas (Tex. Bus. &  
3 Com. Code §2.313), and Utah (§70A-2-313). This count is thus brought  
4 collectively on behalf of the California, Texas and Utah Subclasses, as well as other  
5 members of the Class who are residents in other states as the Court determines to  
6 be appropriate, in which the statutes outlining the cause of action for a breach of  
7 express warranty are substantially the same.

8           65. Chrysler marketed, sold and distributed the Class Vehicles to  
9 Plaintiffs and the members of the respective state Subclasses in the regular course  
10 of its business.

11           66. Chrysler expressly represented and warranted, by and through  
12 statements, descriptions and affirmations of fact made by it and its authorized  
13 agents and representatives that the Class Vehicles were safe for ordinary use.

14           67. Further, Chrysler issued a written warranty to Plaintiffs and the  
15 members of the subclasses in which Chrysler warranted that the Class Vehicles  
16 were free from defects in material and workmanship.

17           68. In reliance upon these express warranties, Plaintiffs and the members  
18 of the subclasses purchased or leased the Class Vehicles.

19           69. The Class Vehicles failed to comply with the express warranties  
20 because they suffered from inherent design and/or manufacturing defects that, from  
21 the date of purchase forward, rendered the Class Vehicles unfit for their intended  
22 use and purpose and made them not free from defects in material and workmanship.

23           70. Chrysler knew or had reason to know that the Class Vehicles did not  
24 conform to the express representations because the vehicles were neither as safe,  
25 usable nor free from defects as represented.

26           71. Plaintiffs notified Chrysler of the breach within a reasonable time  
27 and/or was not required to do so because affording Chrysler a reasonable  
28 opportunity to cure its breach of written warranty would have been futile. Chrysler

1 was also on notice of the Defect from the complaints and service requests it  
2 received from Class members, from repairs and/or replacements of the Defect, and  
3 through its own maintenance records.

4 72. As a direct and proximate cause of Chrysler's breach, Plaintiffs and  
5 the other subclass members have suffered damages and continue to suffer damages,  
6 including economic damages at the point of sale or lease, that is, the difference  
7 between the value of the vehicle as promised and the value of the vehicle as  
8 delivered. Additionally, Plaintiffs and the other Class members either have incurred  
9 or will incur economic damages at the point of repair in the form of the cost of  
10 repair.

11 73. Plaintiffs and the other Class members are entitled to legal and  
12 equitable relief against Chrysler, including damages, consequential damages,  
13 specific performance, rescission, attorneys' fees, costs of suit, and other relief as  
14 appropriate.

### 15 **COUNT III**

#### 16 (Breach of State Implied Warranties

17 On Behalf of Named Plaintiffs and the California, Texas and Utah Subclasses)

18 74. Plaintiffs reallege as if fully set forth herein each and every allegation  
19 set forth above.

20 75. Chrysler's actions, as alleged above, violate implied warranty of  
21 merchantability statutes in the states of California (Cal. Civ. Code §1792), Texas  
22 (Tex. Bus. & Com. Code §2.314), and Utah (§70A-2-314). This count is thus  
23 brought collectively on behalf of the California, Texas and Utah Subclasses, as well  
24 as other members of the Class who are residents in other states as the Court  
25 determines to be appropriate, in which the statutes outlining the cause of action for  
26 a breach of implied warranty are substantially the same.

1           76. Chrysler marketed, sold and distributed the Class Vehicles to  
2 Plaintiffs and the members of the respective state Subclasses in the regular course  
3 of its business.

4           77. Chrysler impliedly warranted, by and through statements, descriptions  
5 and affirmations of fact made by it and its authorized agents and representatives  
6 that the Class Vehicles were of merchantable quality, would pass without objection  
7 in the trade or business under the contract description, were safe for use, and were  
8 free of material defects and fit for the ordinary purposes for which they were to be  
9 used.

10           78. In reliance upon these implied warranties, Plaintiffs and the members  
11 of the subclasses purchased or leased the Class Vehicles.

12           79. The Class Vehicles failed to comply with the implied warranties  
13 because they suffered from inherent design and/or manufacturing defects that, from  
14 the date of purchase forward, rendered the Class Vehicles unfit for their intended  
15 use and purpose and made them not free from defects in material and workmanship.

16           80. Chrysler knew or had reason to know that the Class Vehicles did not  
17 conform to the implied warranties because the vehicles were neither as safe, usable  
18 nor free from defects as represented.

19           81. Plaintiffs notified Chrysler of the breach within a reasonable time  
20 and/or was not required to do so because affording Chrysler a reasonable  
21 opportunity to cure its breach of written warranty would have been futile. Chrysler  
22 was also on notice of the Defect from the complaints and service requests it  
23 received from Class members, from repairs and/or replacements of the Defect, and  
24 through its own maintenance records.

25           82. As a direct and proximate cause of Chrysler's breach, Plaintiffs and  
26 the other subclass members have suffered damages and continue to suffer damages,  
27 including economic damages at the point of sale or lease, that is, the difference  
28 between the value of the vehicle as promised and the value of the vehicle as

1 delivered. Additionally, Plaintiffs and the other Class members either have incurred  
2 or will incur economic damages at the point of repair in the form of the cost of  
3 repair.

4 83. Plaintiffs and the other Class members are entitled to legal and  
5 equitable relief against Chrysler, including damages, consequential damages,  
6 specific performance, rescission, attorneys' fees, costs of suit, and other relief as  
7 appropriate.

#### 8 **COUNT IV**

9 (Violation of the Consumers Legal Remedies Act, Cal. Civ. Code §1750, *et seq.*

10 On Behalf of Plaintiffs Bright, Sater, and the California Subclass)

11 84. Plaintiffs Bright and Sater, on behalf of themselves and the California  
12 Subclass, reallege as if fully set forth herein each and every allegation set forth  
13 above.

14 85. Chrysler is a "person" under Cal. Civ. Code section 1761(c).

15 86. Plaintiffs Bright and Sater and the other California Subclass members  
16 are "consumers" under Cal. Civ. Code section 1761(d).

17 87. Plaintiffs Bright and Sater and the other California Subclass members  
18 engaged in "transactions" under Cal. Civ. Code section 1761(e), including the  
19 purchase or lease of Class Vehicles from Chrysler and the presentation of Class  
20 Vehicles for repair or replacement of the defect to Chrysler.

21 88. As set forth herein, Chrysler's acts, policies, and practices undertaken  
22 in transactions intended to result and which did result in the sale or lease of Class  
23 Vehicles, violate sections 1770(a)(5), (a)(7), (a)(9), (a)(14), and (a)(16) of the  
24 CLRA in that: (a) Chrysler represented that its goods have sponsorship, approval,  
25 characteristics, uses, or benefits which they do not have; (b) Chrysler represented  
26 that its goods are of a particular standard, quality, or grade, but are of another;  
27 (c) Chrysler advertised its goods with intent not to sell them as advertised;  
28 (d) Chrysler represented that a transaction conferred or involved rights, remedies,

1 or obligations which it did not have or involved; and (e) Chrysler represented that  
2 its goods were supplied in accordance with a previous representation when they  
3 were not.

4 89. The existence of the Defect is a material fact. Plaintiffs Bright and  
5 Sater and other California Subclass members were unaware of the Defect when  
6 they purchased or leased the Class Vehicles. Consumers value reliability and  
7 dependability of automobiles and automobile parts, especially concerning vital  
8 protection of tie rod components in the Class Vehicles. Had they known of the  
9 Defect, Plaintiffs Bright and Sater and the other California Subclass members  
10 would not have purchased or leased the Class Vehicles, or would have done so only  
11 at lower prices.

12 90. Reasonable consumers expect, among other things: (a) New vehicles,  
13 including Class Vehicles, to have tie rods that will be remain operable for the  
14 duration of the car's reasonable life and operate effectively; (b) New vehicles,  
15 including Class Vehicles, to function properly for the duration of the warranty and  
16 that defects will be covered under warranty.

17 91. Chrysler had a duty to disclose the defect in the Class Vehicles for  
18 various reasons, including that: (a) the Defect's existence is contrary to Chrysler's  
19 representations and consumers' expectations; (b) Chrysler's concealment of the  
20 Defect and/or Chrysler's failure to disclose the Defect was likely to deceive  
21 reasonable consumers; (c) Chrysler intentionally concealed the Defect with the  
22 intent to defraud consumers; and (d) Chrysler's concealment of the Defect harmed  
23 Plaintiffs and other Class members.

24 92. As a result of Chrysler's practices, Plaintiffs Bright and Sater and the  
25 other Subclass members have suffered harm.

26 93. Pursuant to the provisions of Cal. Civ. Code §1780, Plaintiffs seeks  
27 an order enjoining Chrysler from the unlawful practices described herein, a  
28

1 declaration that Chrysler's conduct violates the CLRA, and attorneys' fees and  
2 costs of litigation.

3 94. Plaintiffs have concurrently served herewith by certified mail the  
4 demand letter required by Cal. Civil. Code §1781(d), a true and correct copy of  
5 which is attached hereto as Exhibit 6.

### 6 **COUNT V**

7 (Violation of California Business and Professions Code §17200 *et seq.*

8 On Behalf of Plaintiffs Bright, Sater, and the California Subclass)

9 95. Plaintiffs Bright and Sater, on behalf of themselves and the California  
10 Subclass, reallege as if fully set forth herein each and every allegation set forth  
11 above.

12 96. Chrysler's acts and practices, as alleged in this Complaint, constitute  
13 unlawful, unfair and/or fraudulent business practices, in violation of the Unfair  
14 Competition Law, Cal. Bus. & Prof. Code §17200 *et seq.*

15 97. The business practices engaged in by Chrysler that violate the Unfair  
16 Competition Law include failing to disclose the Defect at the point of sale, the point  
17 of repair, or otherwise.

18 98. Chrysler engaged in unlawful business practices by violating the  
19 Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code §1750 *et seq.*; the  
20 Magnuson-Moss Warranty Act, 15 U.S.C. §2301 *et seq.*; and by engaging in  
21 conduct, as alleged herein, that breaches the express and implied warranties.

22 99. Chrysler engaged in unfair business practices by, among other things:  
23 (a) Engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or  
24 substantially injurious to members of the California Subclass; (b) Engaging in  
25 conduct that undermines or violates the stated policies underlying the CLRA and  
26 the Magnuson-Moss Warranty Act, each of which seeks to protect consumers  
27 against unfair and sharp business practices and to promote a basic level of honesty  
28 and reliability in the marketplace; and (c) Engaging in conduct that causes a

1 substantial injury to consumers, not outweighed by any countervailing benefits to  
2 consumers or to competition, which the consumers could not have reasonably  
3 avoided.

4 100. Chrysler engaged in fraudulent business practices by engaging in  
5 conduct that was and is likely to deceive consumers acting reasonably under the  
6 circumstances.

7 101. As a direct and proximate result of Chrysler's unfair and fraudulent  
8 business practices as alleged herein, Plaintiffs Bright and Sater and other California  
9 Subclass Members suffered injury-in-fact and lost money or property, in that they  
10 purchased or leased a vehicle they otherwise would not have purchased, paid for  
11 repairs, and are left with Class Vehicles of diminished value and utility because of  
12 the Defect. Meanwhile, Chrysler has sold and leased more Class Vehicles than it  
13 otherwise could have and charged inflated prices for Class Vehicles, unjustly  
14 enriching itself thereby.

15 102. Plaintiffs Bright and Sater and California Subclass members are  
16 entitled to equitable relief including restitution of all fees, disgorgement of all  
17 profits accruing to Chrysler because of its unfair, fraudulent, and deceptive  
18 practices, attorneys' fees and costs, declaratory relief, and a permanent injunction  
19 enjoining Chrysler from its unfair, fraudulent, and deceitful activity.

## 20 **COUNT VI**

21 (Violation of Texas Deceptive Trade Practices Act, Tex. Bus. & Com. Code  
22 §17.46 *et seq.*; On Behalf of Plaintiffs Derrick, Johnson, and the Texas Subclass)

23 103. Plaintiffs Derrick and Johnson, on behalf of themselves and the Texas  
24 Subclass, reallege as if fully set forth herein each and every allegation set forth  
25 above.

26 104. Plaintiffs Derrick and Johnson and each member of the Texas  
27 Subclass is a "consumer" as defined in the Texas Deceptive Trade Practices Act  
28 ("DTPA").



105. Chrysler violated the following provisions of the DTPA:

- a. Tex. Bus. & Com. Code §17.50(1): the use or employment of a false, misleading, or deceptive acts or practices as defined in §17.46(b)(5), §17.46(b)(7), §17.46(b)(12), §17.46(b)(20), and §17.46(b)(24) of the DTPA that were detrimentally relied upon by Plaintiffs and each member of the Texas Subclass;
- b. Tex. Bus. & Com. Code §17.50(2): breach of express warranty, as defined in §2.313 of the Tex. Bus. & Com. Code;
- c. Tex. Bus. & Com. Code §17.50(2): breach of the implied warranty to perform repairs in a good and workmanlike manner, as set forth in *Melody Home Mfg. Co. v. Barnes*, 741 S.W.2d 349, 354 (Tex. 1987);
- d. Tex. Bus. & Com. Code §17.50(2): breach of the implied warranty of merchantability as defined in §2.314 of the Tex. Bus. & Com. Code;
- e. Tex. Bus. & Com. Code §17.50(3): an unconscionable action or course of action as defined by §17.45(5).

106. The limited remedies in Chrysler's warranties failed of their essential purpose and deprived Plaintiffs Derrick and Johnson and each member of the Texas Subclass of the substantial value of the bargain because Chrysler did not correct the Defect within a reasonable time. Tex. Bus. & Com. Code §2.719.

107. Chrysler's violations of the DTPA were committed knowingly and intentionally as those terms are defined in §17.45(9) and §17.45(13) of the DTPA.

108. Chrysler's conduct was a producing and/or proximate cause of actual damages to Plaintiffs Derrick and Johnson and each member of the Texas Subclass Plaintiff.

**COUNT VII**

(Negligence – Failure to Warn

On Behalf of Named Plaintiffs and the Class)

109. Plaintiffs reallege as if fully set forth herein each and every allegation set forth above.

110. At all times referenced herein, Chrysler was responsible for designing, formulating, testing, manufacturing, inspecting, distributing, marketing, supplying and/or selling the Class Vehicles to Plaintiffs and the Class.

111. At all times material hereto, the use of the Class Vehicles in a manner that was intended and/or reasonably foreseeable by Defendants involved substantial risk of premature failure of the left tie rod and safety risks to occupants of Class Vehicles.

112. At all times the risk of premature failure and potential danger was known or knowable by Chrysler, in light of the generally recognized and prevailing knowledge available at the time of manufacture and design, as described herein.

113. Chrysler, as the manufacturer of the Class Vehicles, had a duty to warn Plaintiffs and the Class of all dangers associated with the intended use.

114. Chrysler was negligent and breached its duty of care by negligently failing to give adequate warnings to purchasers and lessees of the Class Vehicles, including Plaintiffs, about the risks, potential dangers and defective condition of the Class Vehicles.

115. Chrysler knew, or by the exercise of reasonable care, should have known of the inherent design defects and resulting dangers associated with using the Class Vehicles, and knew that Plaintiffs and Class members could not reasonably be aware of those risks. Chrysler failed to exercise reasonable care in providing the Class with adequate warnings.





1 of money from the sale of Class Vehicles and the avoidance of or refusal to incur  
2 expenses associated with repair of said defective vehicles.

3 133. Chrysler has been unjustly benefitted through the unlawful or  
4 wrongful collection of money from the sale of Class Vehicles, and continues to so  
5 benefit to the detriment and at the expense of Class members.

6 134. Accordingly, Chrysler should not be allowed to retain the proceeds  
7 from the benefits conferred up on it by Plaintiffs and Class members, who seek  
8 disgorgement of Chrysler's unjustly acquired profits and other monetary benefits  
9 resulting from its unlawful conduct, and seek restitution for the benefit of Plaintiffs  
10 and Class members, in an equitable and efficient fashion as the Court deems just  
11 and proper.

12 135. Plaintiffs and Class members are entitled to the imposition of a  
13 constructive trust upon Chrysler such that its unjust enrichment, unjust benefit, and  
14 ill-gotten gains may be allocated and distributed equitably by the Court to and for  
15 the benefit of Plaintiffs and Class members.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiffs, on behalf of themselves and the Class members,  
18 prays for judgment as follows:

- 19 a. For an order certifying the Plaintiffs Class and appointing Plaintiffs and  
20 his counsel to represent the Class;
- 21 b. For an order awarding Plaintiffs and the members of the Class damages,  
22 consequential damages, specific performance, and/or rescission;
- 23 c. For an order awarding Plaintiffs and the members of the Class restitution  
24 and disgorgement of profits, or other equitable relief as the Court deems  
25 proper;
- 26 d. For an order enjoining Chrysler from continuing to engage in unlawful  
27 business practices as alleged herein;
- 28

- 1 e. For an order awarding Plaintiffs and the members of the Class pre-  
2 judgment and post-judgment interest;  
3 f. For an order awarding Plaintiffs and the members of the Class reasonable  
4 attorneys' fees and costs of suit, including expert witness fees; and  
5 g. For an order imposing a constructive trust over the revenues from sales  
6 of and resulting profits received by Defendant as a result of its wrongful  
7 conduct.  
8 h. For an order awarding such other and further relief as this Court may  
9 deem just and proper.

10 **JURY TRIAL DEMANDED**

11 Plaintiffs demand a trial by jury on all issues so triable.  
12

13  
14 Dated: April 4, 2014

PREMIER LEGAL CENTER, A.P.C..

15  
16 By: /s/Steven L. Marchbanks  
17 Steven L. Marchbanks  
18 Attorneys for Plaintiffs  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28